IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 15424 of 1999

Between:

B.Anjaiah, S/o Chandraiah,
Andhra Pradesh Small Scale Industrial Development - Corporation, R/o H.No.2-3-734/A/44, Shankar Nagar, Hyderabad.

....PETITIONER

AND

1 Government of Andhra Pradesh, Rep. by the Principal Secretary to Government, Industries and Commerce Department, Secretariat, Hyderabad.

2 The Managing Director, Andhra Pradesh Small Scale Industrial Development - Corporation, Basheerbagh, Hyderabad.

3 The Commissioner, Public Enterprises Management Board, General Administrative Department, Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS directing the Respondents to consider and pay all consequential benefits of service to the Petitioner from the date of his

appointment i.e.1979 that is to say arrears of salary, increments, pay fixation and promotions and also direct the Respondents to re-induct the Petitioner in service in view of G.O.Ms.No.121 and pass any other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.KALYAN RAO JOSHI

Counsel for the Respondents: G.P. FOR INDUSTRIES AND COMMERCE

The Court made the following :

ORDER

Heard Mr.Kalyan Rao Joshi, learned counsel appearing on behalf of the petitioner and also learned Government Pleader for Industries and Commerce appearing on behalf of the respondents 1 to 3 herein.

The petitioner herein who has been in service as Assistant Manager with the A.P. Small Scale Industries Development Corporation filed this Writ Petition *inter alia* seeking a writ of Mandamus for consideration of his case in regard to payment of the amount to which he is entitled to under the law towards salary and increment etc., Further he has also sought direction to reinstate him in service in view of the G.O.Ms.No.121.

The case of the petitioner is that he was appointed in the year 1979. Subsequently he was suspended and removed from service. Thereafter he was reinstated on more than one occasion for varying applications. Therefore, the petitioner has joined duty and has been in service. However, the said corporation was wound up. Even though the petitioner was subjected to disciplinary enquiry, no payment has been made towards salary all along nor increments etc., to which he is entitled to. Irrespective of the fact that he was

suspended and there was disciplinary enquiry, the fact remains that he has been reinstated and he has been service and therefore, he is entitled to all such benefits. Hence the Writ Petition.

In the counter affidavit filed on behalf of the respondents, it is stated that having regard to the notice issued on 30-04-1999 by the corporation itself treating the period as 'Dies Non', there has no response from the petitioner's side and therefore the petitioner is not entitled to any such benefits. Further the petitioner having attended the duties, he cannot make any such claim. Apart from the above, there are other objections being taken in the counter affidavit.

Having heard the counsel appearing on either side and on perusal of the record, the only question which falls for consideration on the facts of the circumstances is as to whether the petitioner is entitled to the salary benefits along with increments etc., during the period of service when the said corporation which was wound up subsequently?

There is no dispute of the fact that the petitioner was in service as an employee of the corporation which was ultimately wound up. Further the petitioner was subjected to disciplinary proceedings on one occasion where under he was suspended and again reinstated by taking him into service. Therefore, it shall be deemed that he has been in service all along. However the complaint is that he was not paid the salary and increments all along in spite of the request made by him for which the respondent sought to deny their action in not paying any amount, as they issued a notice dated 30-04-1999 treating the entire period as 'Dies Non'. Admittedly, the petitioner did not file any application. The fact of treating the period as 'Dies Non' and denial of payment of such benefits by the petitioner are the matters required to be considered by the 1st respondent which has taken over the entire assets of the corporation and issued a notice, dated 30-04-1999. Having regard to the fact that the petitioner has no

opportunity to reply all along to the same and the matter has not coming up for consideration by way of response from the petitioner, it is felt desirable that one opportunity should be provided to enable the petitioner to submit the entire case for reconsideration.

In view of the above circumstances, the Writ Petition is accordingly disposed of directing the petitioner to file a comprehensive representation within a period of four weeks from today before the 1st respondent and on receipt of such, the same shall be considered and disposed of on merits in accordance with law after giving notice and opportunity to the petitioner. No costs.

17-03-2005

Hsd

Note: Issue CC in one week

B/o

Hsd

Asst. Registrar

To

1 The Principal Secretary to Government,
Government of Andhra Pradesh,
Industries and Commerce
Department, Secretariat, Hyderabad.

2 The Managing Director, Andhra Pradesh Small Scale
Industrial Development - Corporation, Basheerbagh,
Hyderabad.

3 The Commissioner, Public Enterprises Management

Board, General Administrative Department, Secretariat, Hyderabad.

4 2 C.Cs to G.P. for Industries and Commerce, High Court buildings, Hyderabad (OUT)

5 2 CD copies.